



STATE BOARD OF EQUALIZATION

August 10, 1964

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This is with reference to your letter of July 8 regarding the application of tax on transactions involving production and sale of television commercials.

We understand the following facts: Your client, a foreign corporation with offices in California, engaged an out-of-state firm to produce animations which ultimately become a part of a completed filmed commercial. The negative of the animation footage is sent to California where another firm produces additional footage (not animated) and the two are combined to result in a completed commercial. Your client is the owner of the filmed commercial (including negatives, masters, prints, etc.).

The completed commercial plus out-takes, cuttings, etc., are all shipped out of state. From this we gather that no tangible personal property (including negatives, etc.) remains in California.

From the foregoing, use tax would apply on the animation negatives purchased by your client and shipped here for use in producing a completed film commercial. The measure of tax would be the total cost to your client.

The California firm who films the live actor portion and uses material supplied by your client would be considered the producer of the completed filmed commercial, and under our Ruling 19 and Bulletin 61-4 would be the consumer of all the tangible property used by him to complete the film. This would not include the animated negative since he would not be purchasing this, but merely using your client's property.

If the California producer contracted to have the animation done out of state, he would be liable for the use tax when the negatives were shipped here for his use in completing the production.

By holding the producer of the complete production to be the consumer, your client would have no sales tax liability on charges made by the producer to him, including charges for prints.

It would not matter whether all the film stock was shipped out of state. The interstate commerce issue would not arise because the completed production is made in California and consumption (as far as the producer is concerned) is completed in California when the film is completed here.

Enclosed is a copy of Ruling 19 and Bulletin 61-4.

Very truly yours,

Robert H. Anderson
Associate Tax Counsel

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